

.Before the
COPYRIGHT ROYALTY BOARD
LIBRARY OF CONGRESS
Washington, DC

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In the Matter of)	
)	
Notice and Recordkeeping for Use of)	
Sound Recordings Under Statutory)	Docket No. 14-CRB-0005 (RM)
License)	
Notice of proposed rulemaking)	
)	
)	

Comments of KSSU

Pursuant to the above captioned Notice of Proposed Rulemaking ("Notice") which appeared in the Federal Register on May 2, 2014, KSSU, submits its comments. KSSU is a Noncommercial Educational Webcaster ("NEW") as defined by 37 CFR §380.21 Since KSSU does not possess an FCC license, it cannot qualify as a "minimum fee broadcaster" as currently defined in 37 CFR 370.4(b)(3). The station is web only, student-run, and is a student engagement program of Associated Students, Inc., at California State University, Sacramento. Approximately 40 students work at the station during the regular semesters (Fall and Spring) as volunteer DJs and 3 or 4 students work part-time (under 20 hours a week during the semesters) at the station. KSSU has one staff advisor who is also responsible for KSSU business operations during Summer and Winter breaks as well as serving as a member of the student engagement leadership management team.

The designation as a NEW has suited us well as the Reporting requirements under 37 CFR §380.23 provides KSSU the ability to submit Reports of Use (ROUs) through a proxy fee. We would like to retain the ability to report as a NEW for as long as possible,

and request that the regulations which appear to sunset these recordkeeping provisions, be removed so we can continue to report as a NEW even after December 31, 2015. The §380.23 regulations were adopted as precedent and should be allowed to remain as the recordkeeping and reporting regulations as they serve us well, will allow us to continue to webcast and have been previously approved and adopted as a reasonable.

Barring that outcome, KSSU fully supports the proposed changes to 37 CFR §370.4(b)(2) which would qualify KSSU as a Minimum Fee Broadcaster in the event that the classification of a NEW is no longer available as of January 1, 2016 as that the only option which MIGHT allow us to continue to survive as a student operated, non-profit educational station.

In the Notice, the Copyright Royalty Judges (“Judges”) asked how unlicensed minimum fee Educational Stations have been reporting under the current regulations. As detailed above, KSSU has been reporting under §380.23. If it were not for this section of the regulations, KSSU would have a huge increase in work load for student DJs, most of whom are volunteers and full time students as well as DJs. We would also have to find software or other solutions to report listener connections when there is no live DJ in the studio. The Judges further asked if the proposed change is warranted. If the ability to report as a NEW went away and our only option would be to report census data on a monthly basis with ATP, KSSU would face an extreme hardship and expense to develop the resources necessary to comply with these regulations. These additional reporting requirements would threaten the future of KSSU. KSSU is a small, student-run station and we are not the only student program competing for limited funding. Additional reporting requirements would increase the workload of KSSU’s part-time student staff.

As such, KSSU believes the changes are warranted if ability to report under §380.23 were to sunset.

With respect to the elimination of the requirement of a template in Quatro Pro, KSSU has no objection; however we respectfully request that this requirement be replaced with a template as Google spreadsheet. Also, the current Excel template should be updated to conform to any and all adopted changes.

KSSU feels that the requirement to submit a copy the Notice of Use directly to SoundExchange is unnecessary and likely to be overlooked. This problem would be eliminated if KSSU could complete a form online and have an option to submit payment with a check or with a credit card. A copy of the electronic submission could then automatically be forwarded to SoundExchange.

KSSU is very relieved to see that the proposed regulations included the qualifier, “if feasible” with respect to reporting the ISRC because it is absolutely not feasible for our station at this time. Depending on the workload and requirements, we would have to figure out how to comply and distribute the duties among our un-paid volunteer student DJs. We would also have to investigate and pay for a search program or database to collect them and individually enter them. If the regulations require KSSU to report the ISRC associated with every sound/song recording used by our station, it would necessitate an extensive amount of manual research to find the ISRC information. Such an undertaking is beyond the resources of a student-run station. We allow our students to bring and play music they own personally and have no way to enforce tracking or code collection from these tracks.

The proposed regulations include the following;

- (ix) In the case of a classical recording:
 - (A) The ensemble (e.g., orchestra or other group) identified on the commercial product packaging, if any;
 - (B) The conductor identified on the commercial product packaging, if any;
 - (C) The soloist(s) identified on the commercial product packaging, if any;
 - (D) The composer of the relevant musical work;
 - (E) The overall title of the relevant musical work (e.g., the name of a symphony); and
 - (F) The title of the relevant movement or other constituent part of the musical work, if applicable;

KSSU must object to these new requirements because collecting this data is not currently possible, and we would have to investigate and purchase supplemental systems. We would also have to put the extra burden on our volunteer student DJs. Even if we did have DJs at this time interested in playing classical music, the extra reporting requirements might be a reason they would choose not to play classical music at all. The volunteer DJs would also be more likely to forget about the additional reporting requirements or they would be more prone to guessing the information. This would result in an increase of errors. Our part time student staff does not work enough hours to be able to catch all of these potential errors or to “fill in the blanks.” KSSU is in minimal operation during the Summer and Winter breaks and does not have the monetary resources to hire any more part time or temporary staff. Historically, KSSU has played very little classical recordings and would not be able to justify any new expenses incurred with extra reporting requirements.

KSSU must also strongly object to the proposed new requirement to be required to add the “The letters “NLR” (for “no license required”) if the Service has excluded

the sound recording from its calculation of statutory royalties in accordance with regulations setting forth the applicable royalty rates and terms because transmission of the sound recording does not require a license, or the letters “DL” (for “direct license”) if the Service has excluded the sound recording from its calculation of statutory royalties in accordance with regulations setting forth the applicable royalty rates and terms because the Service has a license directly from the copyright owner of such sound recording.”

KSSU objects because we do not have a way to log this information in our current operation systems, and we would have to research and purchase supplemental systems. The workload would be yet another thing our volunteer student DJs would have to deal with. KSSU objects because live DJs are not trained to know the difference and would be more likely to guess and this would result in multiple errors. KSSU doesn’t have the monetary resources and the resources to hire more temporary employees to assist with correcting these guesses. To our knowledge, no definitive list exists which would allow us to include this information.

KSSU is uncomfortable with the provisions for a late fee for “non-compliant” reports of use, even if filed timely. What would be considered a non-compliant report? Would it be just one line of data with a typo? How would these ROUs be reviewed in a timely manner to verify their compliance? Without more parameters and definitions of what constitutes a non-compliant ROU, we cannot affirm how we would comply, or how would guarantee perfect accuracy.

KSSU must object to the proposed change of due date for ROUs submitted from the current 45 days after the close of the relevant reporting period to 30 days because, as I mentioned above, our station is run by student volunteers who would take on all the extra burdens. Especially if ROUs were required to contain more information, and penalized

for noncompliance, we would definitely have difficulty to submit complete, compliant ROUs with our small student staff.

Conclusion

For the above reasons, KSSU believes that the §380.23 provisions for NEWs should be extended indefinitely as we may not exist if they go away. In the alternative, the proposed changes to 37 CFR §370.4(b)(2) should be adopted so KSSU might have a chance to survive.

KSSU objects to the additional reporting requirements described above, including ATP reporting, ISRC reporting, special reporting for classical music and music with special licensing permissions or no licensing required. We are uncomfortable with provisions for non-compliant report fees without a more accurate description of what that would entail, and we object to the shortening of the time period for submission, especially if more information is required for every report.

Dated: June 18, 2014.

Respectfully submitted,



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